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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,100	03/15/2000	Steven Sheppard	6019.3026	9168

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EXAMINER

CHUNG, JASON J

ART UNIT PAPER NUMBER

2611

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/526,100

Applicant(s)

SHEPPARD ET AL.

Examiner

Jason J. Chung

Art Unit

2611

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because: The applicant argues on pages 2-6 of the response that the rejection of each of the independent claims are not obvious. In particular, on page 5 of the response the applicant states, "the combination of Ehreth and Schultheiss does not teach or suggest this novel approach". The examiner respectfully disagrees with this assertion.

Ehreth discloses a residential gateway 30 receives channel select commands from remote control(s) 70 corresponding to TV(s) 100 (column 3, line 35-column 4, line 43; figure 1). The only limitations Ehreth does not teach is a television located close in proximity that has an optical remote control communicating with the gateway. Schultheiss discloses this additional limitation of a television 40 located close in proximity and an optical remote control 56 (column 5, lines 30-40) communicating directly with the residential gateway 12 (column 5, lines 1-10).

The applicant also argues on page 6 of the response that, "the Applicants submit that they cannot be operably combined". Schultheiss discloses the need to reduce additional services and accessory units (i.e. descramblers, receivers) (column 1, lines 46-53), which the examiner construes as without needing a unit 50 (Ehreth: figure 1) in between a gateway 30 (Ehreth). Thus, to eliminate unit 50 of Ehreth would be a beneficial in combining with Schultheiss. Ehreth teaches the limitation of multiple televisions in a dwelling (figure 1), which is certainly well known in the art.

The applicant argues on pages 6-11 of the response that the dependent claims and similar independent claims are not allowable for the same reasons previously described. The examiner respectfully disagrees with this assertion and provides the same reasons as set forth above.

The applicant argues on the bottom of page 11-page 13 of the response that Martinez fails to disclose the claimed invention. Specifically, the applicant states on page 13, Conversely, the AND gate...TDM slot selector 29". While the gating signal does activate/deactivate the AND gate, it does so in combination with the viewer response applied to the AND gate. Thus the bias switch (AND gate) is turning on and off in response to a pulse train (optical signal) and gating signal (Martinez (column 9, lines 8-20). That said, the examiner is interpreting the bias switch (AND gate) on when there is a logic high '1'. The examiner reads off being the AND gate when there is a logic low '0' in the optical signal.

The applicant argues on pages 13-14 of the response that the dependent claims should be allowable since the independent claims are allowable for the reasons applicant previously stated. The examiner respectfully disagrees with this assertion for the same reasons set forth above.



**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**